

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

PENNANT FOODS HOLDING, INC.

Employer ¹

and

UNITED AUTO WORKERS INTERNATIONAL UNION,
LOCAL 376, AFL-CIO

Petitioner

Case No. 34-RC-1925

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act. ²
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act: ³

¹ The Employer's name appears as corrected at the hearing.

² The Employer has questioned the Petitioner's showing of interest, requesting an investigation thereof, and has moved to dismiss the petition alleging "supervisory taint." I have duly considered the Employer's evidence in support of its motion. Even assuming *arguendo* that the individuals who have allegedly "tainted" the showing of interest are statutory supervisors (see footnote 3 *supra*), I am

All full-time and regular part-time production and maintenance employees employed by the Employer at its 1000 University Drive, North Haven, Connecticut facility; but excluding office clerical employees, and guards, professional employees and supervisors ⁴ as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted among the employees in the unit found appropriate herein at the time and place set forth in the notices of election to be issued subsequently.

Eligible to vote: those employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision,⁵ including employees who did not work during that period because they were in the military services of the United States, ill, on vacation, or temporarily laid off; and employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements.

Ineligible to vote: employees who have quit or been discharged for cause since the designated payroll period; employees engaged in a strike who have been discharged for cause since the strike's commencement and who have not been rehired or reinstated before the election date; and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

The eligible employees shall vote whether or not they desire to be represented for collective bargaining purposes by United Auto Workers International Union, Local 376, AFL-CIO.

administratively satisfied that the Petitioner has a sufficiently valid showing of interest to support the petition. Accordingly, the Employer's motion to dismiss the petition is hereby denied.

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The unit is in accord with the stipulation of the parties.

⁴

Although the parties have stipulated that Juan Tomas and Raphael Martinez are "supervisors within the meaning of the Act," the record contains no evidence to support this conclusion. More significantly, on the day after the close of the hearing Martinez filed an unfair labor practice charge against the Employer in Case No. 34-CA-9905 alleging, inter alia, that he and Tomas were unlawfully terminated in violation of Section 8(a)3 of the Act. In view of the foregoing, I shall make no findings as to the supervisory status of Martinez or Tomas, and I shall permit them to vote, subject to challenge, in the election directed herein.

⁵

The parties have stipulated to a payroll period ending October 28, 2001.

To ensure that all eligible employees have the opportunity to be informed of the issues in the exercise of their statutory rights to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision and Direction of Election, the Employer shall file with the undersigned, an eligibility list containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional office, 280 Trumbull Street, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103, on or before November 21, 2001. No extension of time to file these lists shall be granted except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by November 28, 2001.

Dated at Hartford, Connecticut this 14th day of November, 2001.

/s/ Peter B. Hoffman
Peter B. Hoffman, Regional Director
National Labor Relations Board
Region 34

324-8025-3300